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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,199

11/01/2006

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EXAMINER

DEMILLE, DANTON D

ART UNIT

PAPER NUMBER

3771

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/588,199	<b>Applicant(s)</b> KATSUKAWA ET AL.	
	<b>Examiner</b> Danton DeMille	<b>Art Unit</b> 3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/2/6</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

**Claims 5-9, 12, 13, 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

The claims recite that the foot-front water spouting section changes pressure of spouting water, for example. It doesn't appear accurate that the foot-front water spouting section actually changes the pressure or changes water spouting amount or changes flow rate etc. It would appear that a different element such as the controller that actually provides the function recited. Claims 12, 13, 15, 16 and 17 recite function without clearly stating what structure is intended to provide the function. Therefore, it is not clear what is intended to comprehend these claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rolando et al. (US 4,485,503).**

As broadly recited, Rolando teaches in figure 3, for example, a foot-front water spouting section for spouting water toward a foot-front side from sprayer 143. Rolando also teaches a water-spouting section direction moving mechanism by the rotating mechanism in manifold 143. The rotating mechanism provides for moving the direction of water spouting along the

longitudinal direction of the foot as the nozzles rotate from the bottom up to the top and back down to the bottom. This would appear to comprehend the claimed invention.

Regarding claim 3, when the manifold 143 is horizontal the plurality of spouts are arranged in side by side width direction.

Regarding claim 4, the path of movement includes the toe.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 10, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over**

**Rolando et al. '503.**

Rolando teaches a water-spouting section 143 that is rotatable about a horizontal axis as the water arriving point is moved along the longitudinal direction of the foot as the water spouted from the water spouting section rotates from bottom to top. Rolando appears silent with regard to exactly how this is accomplished however a rotary shaft is well known means for rotating elements and would have been an obvious provision.

Regarding claim 11, the exact location of the water spouting section is well within the realm of the artisan of ordinary skill dependent on practical considerations of intended use.

**Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahn (WO 97/42926) in view of Trenary et al. (US 4,588,130).**

Ahn teaches a leg water-spouting section comprising a foot-front water spouting section 74 for spouting water toward a foot-front side of a user. Ahn teaches spray nozzle 76 is a conventionally used shower type nozzle such as disclosed in US Pat. No. 4,588,130 to Trenary. Trenary teaches a spray nozzle that includes a ball and socket arrangement 118, 160 that allows the spray nozzle to swivel about the ball 118. The ball and socket arrangement would appear to comprehend the water-spouting section direction moving mechanism because it is a mechanism that allows the water-spouting section to move the direction of water spouting of the foot-front water spouting section along the longitudinal direction of the foot as desired. The ball and socket allows the water spouting section to pivot in a longitudinal direction from the toe to the ankle thereby moving the direction of the water spouting along the longitudinal direction of the foot. It would have been obvious to one of ordinary skill in the art to modify Ahn to use the spray nozzle of Trenary for the foot-front water spouting section 76 as taught by Ahn as an obvious equivalent alternative water spouting section that is well known in the art.

Regarding claim 3, the exact number and position of the water spouting sections is well within the realm of the artisan of ordinary skill dependent on practical considerations of intended use and most effectiveness of the device.

Regarding claim 5, Trenary teaches the water spouting section changes pressure of spouting water by pulsating the water. When the water spouting section moves the water spouting longitudinally along the foot, the changes of pressure would be received by the water arriving point according to the position of the moving water arriving point.

Regarding claim 7, the amount of water also changes during motion according to the position of the moving water arriving point.

**Claims 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rolando et al. in view of Pisani et al. (US 2005/0203447).**

Pisani teaches a leg water-spouting device, paragraph 44, line 4, that has controls to selectively change water pressure level, pulse rate, sweep speed, duration of massage time, temperature of the water and to be able to cease longitudinal motion in order to massage a single location, paragraph 43. It would have been obvious to one of ordinary skill in the art to modify Rolando to control the motion of the water spouting section to be able to vary the pressure, location, period and amount as taught by Pisani in order to achieve the optimum desired therapy for a particular patient's needs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

23 September 2009

*/Danton DeMille/*  
Danton DeMille  
Primary Examiner  
Art Unit 3771